IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

Crl.MC.No. 3524 of 2007()

CP.45/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NEDUMKANDOM

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PETITIONER: ACCUSED

GEEVARGHESE, S/O.JOHN VARGHESE,
MURUPPEL PARAMBIL HOUSE, PRAKASH GRAM KARA,
KARUNAPURAM VILLAGE, UDUMBANCHOLLA TALUK,
IDUKKI DT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
DIRECTOR GENERAL OF PROSECUTIONS,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
NEDUMKANDOM POLICE STATION, IDUKKI DT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3524 of 2007

Dated this the 23rd day of November 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. Final report was filed showing him as an absconding accused. Warrant of arrest issued by the learned Magistrate is chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before

the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself. Application for bail should be considered in the light of the dictum in Sukumari v. State of Kerala [2001(1)KLT 22]).

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007